

1 receive of it -- this is a decision of the court --

2 MR. JOYCE: Mr. Raymond --

3 JUDGE CHACHKIN: -- not for the truth of what's  
4 stated here. This is a decision of the court.

5 MR. JOYCE: Mr. Raymond testified in his direct that  
6 one of the reasons why they applied for 152.48 is the  
7 possibility of networking on that frequency.

8 JUDGE CHACHKIN: And what does this decision say  
9 contrary to that?

10 MR. JOYCE: This refers -- it's not contrary, but I  
11 was attempting to establish that there's also the possibility,  
12 and in fact he is a member of the network on an RCC frequency  
13 which is exactly what he testified before the break and that's  
14 what Footnote 5 refers to.

15 MR. HARDMAN: Well, Your Honor, that certainly was  
16 not --

17 MR. JOYCE: Whether or not it's comparable is  
18 something that Mr. Hardman can take up with the witness on  
19 redirect. But he answered my questions fairly succinctly  
20 explaining that he was indeed a member of a 152 consortium  
21 which allows networking of their services.

22 MR. HARDMAN: Your Honor, that's a characterization  
23 which I believe is unfounded. I mean, I, I hate to go back on  
24 redirect on --

25 MR. JOYCE: Well, we're going to have to if you want

1 to object.

2 JUDGE CHACHKIN: Well, I'm not going to -- if, if  
3 you're, if you're offering for that purpose I'm not receiving  
4 it for that purpose. The fact that they could receive  
5 messages in each others' geographic areas is not networking as  
6 far as I understand it.

7 MR. JOYCE: I'd, I'd be happy to read back the  
8 record. I believe those are the words that the witness used,  
9 Your Honor.

10 JUDGE CHACHKIN: I don't think the witness said  
11 anything about networking. He said whether he could receive  
12 messages.

13 MR. JOYCE: No, he, he did, Your Honor.

14 JUDGE CHACHKIN: I'm not receiving this document for  
15 that purpose. All I can receive it for is the fact that there  
16 was -- this is a decision of the court for what it's worth.

17 BY MR. JOYCE:

18 Q Mr. Raymond, just so that I don't have reason to  
19 question my own sanity, I understand that you -- your counsel  
20 has attempted to make it clear that there's probably some  
21 difference between a 152.48 network as provided by Network USA  
22 for instance, and another type of network that's referred to  
23 in Footnote 5 here. But my question to you before the break  
24 was simply whether or not Footnote 5 refers to some kind of  
25 network arrangement that you had with other RCC carriers in

1 West Virginia. And your testimony was, I believe, yes, with a  
2 qualification. Isn't that true?

3 A My qualification was, or my answer is, we have a  
4 frequency of 152.510 MHz. To my knowledge, we are the only  
5 paging company with that frequency available in West Virginia.  
6 Network may be available. It is not available on 152.510 as  
7 we are the only paging company with that frequency. It is  
8 used for mobile phone purposes in other areas and you cannot  
9 "network" paging with mobile phones. So, we are --  
10 encompassed into our paging area no matter if there's 50 other  
11 carriers out there, we cannot network with them on 152.510 --  
12 our wide-area system. We can belong to it but we can't  
13 utilize it, sir.

14 Q What is this referral service? Just so I  
15 understand, what does that refer to?

16 A At that time it's called -- and this was in the  
17 record of what you didn't bring -- was a black box which was  
18 designed by Bobier Electronics in Parkersburg, West Virginia  
19 which he is on P6 the same as American Mobilephone, I may  
20 pronounce it incorrectly, Lauttamus, the other one being Bovis  
21 out of Wheeling. Those people and also PCI or something out  
22 of Clarksburg, they can network their systems together because  
23 they have a common frequency, okay? We have no one with a  
24 common frequency except on Mobilephone's and we cannot network  
25 paging with Mobilephone, sir.

1           Q     But unless I made up something here, Mr. Raymond, I  
2 thought you said in your testimony before the break that  
3 Capitol is a member of this referral service referred to in  
4 Footnote 5.

5           A     We can -- well, there is no membership -- we aren't  
6 then, I'm, I'm sorry. I'll have to rephrase that. We do not  
7 have a black box in our, our system. We do not have the PC  
8 that's required to operate this networking system because they  
9 must tie them together somewhere and it's not through a TNPP  
10 system. It's some type of system that Mr. Bobier in  
11 Parkersburg has designed and patented, okay? It is not  
12 available to 152.510. As far as being a member, if someone  
13 needs all those areas we will tell them to contact the RCC  
14 Association in that area. Not on our frequencies. I'm sorry  
15 if I --

16          Q     So that's the distinction. Although your particular  
17 frequency you're saying is not networked with those  
18 frequencies, correct?

19          A     No, it's two different, it's two different  
20 frequencies.

21          Q     I follow that, believe me.

22          A     Okay.

23          Q     All right? But you can provide service to your  
24 customers throughout that wide area network?

25          A     No, sir.

1           Q     You can offer service to your customers throughout  
2 that wide-area network by sending them through some kind of  
3 affiliation agreement to those other carriers. I thought  
4 that's what you just told me.

5           A     If we sent them there, sir, they are not our  
6 customers. Needless to say, if we're not involved into a  
7 common frequency that they share and we send you for example  
8 coming to West Virginia needing all these areas, we say  
9 contact so-and-so, you are not, you are not our customer nor  
10 are we getting referral fees or, or, or even any other type of  
11 monies on down the road, percentages.

12          Q     I presume if you had a multifrequency pager that  
13 pager would work on either your frequency or theirs, you could  
14 send them to both networks?

15          A     No, sir.

16          Q     Just to get off this thing, that black box gizmo I  
17 presume could work on your frequency too, it just happens to  
18 be that it's only set up for the other frequency?

19          A     I didn't design the black box, sir. I don't know.

20          Q     I follow. Your answer is you don't know?

21          A     I don't know. No, sir.

22                JUDGE CHACHKIN: All right. There is an objection  
23 to RAM Exhibit 2 or there's not an objection to RAM Exhibit 2  
24 on relevancy grounds?

25                MS. LADEN: Your Honor, we do have an objection.

1 The testimony to the extent that it talked about Footnote 5, I  
2 think the testimony is in the record. The rest of the exhibit  
3 I believe would just burden the record.

4 JUDGE CHACHKIN: All right. RAM Exhibit 2 is  
5 rejected as irrelevant.

6 (Whereupon, the document referred to  
7 as RAM Technologies Exhibit No. 2 is  
8 hereby rejected.)

9 BY MR. JOYCE:

10 Q Mr. Raymond, at page 9 of your direct testimony you  
11 refer in paragraph two to RAM, to use your term, "escalating  
12 its protest by recruiting a member of Congress to lobby the  
13 FCC on RAM's behalf." Do you see that?

14 A Yes, sir, now I've found it. Yes, sir.

15 Q Okay. Is it your testimony that that's in violation  
16 of the FCC's rules?

17 A I have no idea what their rules is as far as the  
18 government. I'm sure that, that you can get government --  
19 legislature, congressman, to, to write a letter. We did the  
20 same, sir.

21 Q This is just for point of information.

22 A As the declarations and so on go on, this was just  
23 one more step after all else failed to contact a member of  
24 Congress from RAM's district to lobby against a West Virginia  
25 company which caused quite a controversy in all the Ashland

1 newspapers and on and so forth and we can get into that if  
2 you'd like. I doubt it --

3 JUDGE CHACHKIN: Well, what is the Bureau's  
4 position? Isn't this -- an ex parte letter contrary to the  
5 rules? Apparently it's not ex parte. He went a copy to  
6 everybody.

7 MR. RAYMOND: I think so.

8 BY MR. JOYCE:

9 Q My point, Mr. Raymond, to your knowledge, I mean,  
10 your attorneys have never argued prior to today that those  
11 contacts were ex parte violations or violations of the FCC's  
12 rules?

13 A I'm not sure, sir. I think it reflects in the  
14 record because my memory, and I could be wrong on this, we did  
15 not receive a -- the original copy of, of Congressman Perkins'  
16 original letter even though in the newspaper when he defended  
17 himself he said he sent it. I believe our attorney received  
18 the second one because we also had some problems with your  
19 office in not sending proper notifications and you had our,  
20 our correct addresses of our, our attorney.

21 Q My question, Mr. Raymond, is whether or not to your  
22 knowledge your attorney ever filed some kind of a protest with  
23 the FCC concerning the congressman's involvement at this time.

24 A To my knowledge, we filed no protest against  
25 Congressman Perkins -- formal protest. I believe I wrote the

1 congressman a letter.

2 Q And none was filed against RAM Technologies?

3 A Not that I'm, I'm aware of.

4 Q As a matter of fact, Mr. Hardman attended a meeting  
5 at the FCC where the congressman's legal assistant was also  
6 there. So, presumably, if was concerned about it that would  
7 have been a good opportunity to express his concerns, correct?

8 A I would not know how our counsel would view so I, I  
9 don't know, sir.

10 Q Well, Mr. Hardman explained earlier in the week and  
11 I think there are some written documents on point that he  
12 discussed with you what went on in that meeting after he  
13 returned from it, correct?

14 A On the April 2nd meeting? Is that the one? Yes,  
15 but I'm, I'm not familiar that Congressman Perkins or his  
16 associate, I think it was Whalen (phonetic sp.) or something  
17 -- I'm, I'm not saying that he wasn't present, I'm saying I  
18 don't remember if he was present.

19 Q Okay. So, you just don't recall it being discussed  
20 with Mr. Hardman when you discussed that meeting?

21 A If he was there, I'm sure Mr. Hardman informed me.  
22 At this moment, it just wasn't that big a point.

23 Q Now, isn't it true that your boss, Mr. Stone, also  
24 asked for congressional assistance?

25 A Recently we wrote a letter to Senator Byrd, yes,

1 sir.

2 Q And that was after these hearing designation  
3 proceedings had been released by the FCC, correct?

4 A Yes, sir, that is correct.

5 Q And didn't the Bureau chief send a letter to Senator  
6 Byrd saying that that was an ex parte contact because you had  
7 not sent a copy of those communications to RAM or to RAM's  
8 attorneys?

9 A No, sir, not that I'm aware of.

10 MR. JOYCE: Your Honor, I would ask that this  
11 document be marked for purposes of identification as RAM  
12 Exhibit No. 3.

13 JUDGE CHACHKIN: What is this document referring to?

14 MR. JOYCE: It's a letter from Mr. William F. Pekon  
15 (phonetic sp.), Acting Secretary of the FCC to the Honorable  
16 Robert C. Byrd, dated October 4th, 1993; two-paged letter  
17 attached to it. It's a letter from Senator Byrd to Lauren  
18 Belzin, Acting Director of Legislative Affairs for the FCC.  
19 Another letter from Senator Byrd to Lauren Belzin dated August  
20 6th. And then there's a two-page letter from Capitol Paging  
21 dated August 4th, 1993, to Senator Byrd signed by William B.  
22 Stone, president of Capitol Paging.

23 JUDGE CHACHKIN: The document described is marked  
24 for identification as RAM Exhibit 3.

25 (Whereupon, the document referred to

1 as RAM Technologies Exhibit No. 3 was  
2 marked for identification.)

3 MR. JOYCE: May I approach the witness, Your Honor?

4 JUDGE CHACHKIN: Yes.

5 BY MR. JOYCE:

6 Q Mr. Raymond, have you seen this document before?

7 A I would assume so. I've seen a lot -- I'll answer  
8 yes. Yes, sir.

9 Q Okay, and this I, I don't want to have to take up  
10 everybody's time by reading the whole thing, but is it fair to  
11 characterize this as a reference to an ex parte contact  
12 between your boss and Senator Byrd?

13 A If you could -- I'm not an attorney.

14 Q Well, in paragraph two it says, "Your letter," and  
15 it's -- I'm referring to page 1 of Exhibit 3, and this is the  
16 Secretary of the FCC writing to Senator Byrd and it says,  
17 "Your letter was forwarded to the Office of the Managing  
18 Director for reply in keeping with the Commission's ex parte  
19 rules." Do you see that?

20 A Yes, sir.

21 Q Okay, and then if you'll look at pages 5 and 6,  
22 which are the Capitol Paging letters dated August 4th, 1993  
23 which was the day after the hearing designation order was  
24 released, there's no reference there to CC's, to RAM  
25 Technologies or anyone else, correct?

1           A       I see none.

2           MR. HARDMAN: Your Honor, I'm going to object until  
3 Mr. Joyce can establish the foundation for -- in the ex parte  
4 rules that require a letter to a senator to be served on  
5 parties to a proceeding.

6           MR. JOYCE: That's not my point, Mr. Hardman.  
7 If I --

8           MR. HARDMAN: Well, you're alleging that -- you're,  
9 you're, you're alleging a violation of the ex parte rules and  
10 I have yet to see anything in here that comes close.

11          MR. JOYCE: All I've asked Mr. Raymond is to look at  
12 this letter and --

13          JUDGE CHACHKIN: What does this go to? There's no  
14 ex parte issue in this case. Why, why are we wasting our time  
15 with something that's not involved in the revocation  
16 proceeding?

17          MR. JOYCE: That is sort of my, my point,  
18 Mr. Raymond, it's -- Your Honor, it's, it's in the direct  
19 testimony that --

20          JUDGE CHACHKIN: He didn't accuse you -- accuse RAM  
21 of ex parte.

22          MR. JOYCE: I asked him to tell me whether or not  
23 that was not an issue here and I got -- I did not --

24          JUDGE CHACHKIN: There's nothing here -- he, he said  
25 they escalated their opposition by contacting the congressman.

1 There's no charge here of ex parte. I don't understand where  
2 we're going here. There's no ex parte issue in this case.  
3 Why are we wasting time? If you want an ex parte issue you  
4 should have asked for it at some point.

5 BY MR. JOYCE:

6 Q That wasn't my point. Mr. Raymond, the, the fact is  
7 that both sides have contacted their congressmen here and that  
8 doesn't mean that RAM Technologies has done something unlawful  
9 to keep you off the 152.48 frequency does it?

10 A I don't -- and I really don't want to, to speak, I  
11 mean -- I'm not an attorney, sir. You know, you're asking me  
12 questions that what they did legal and what they didn't and I  
13 don't know. If you want my opinion I'll be glad to give you  
14 my opinion. But as far as the, the legality of it, I don't  
15 believe I can answer it if it's legal or not. I, I don't -- I  
16 find some things unethical, immoral as the Ashland paper said  
17 which is in the testimony about a \$500 contribution from, from  
18 a Republican to a Democrat was given two days prior to a  
19 letter being sent to the FCC. I don't know. You know, I  
20 guess maybe that's standard. I'm not sure, sir. I'm, I'm not  
21 an attorney.

22 Q Mr. Raymond, I assure you I'm not asking for a legal  
23 opinion.

24 A Thank you.

25 Q It is your direct testimony, and page 9 follows page

1 8, and page 8 and page 7 you accuse RAM of using litigation  
2 and other efforts to keep you off 152.48. So, all I wanted to  
3 establish was there's nothing wrong with contacting your  
4 congressman to help you out in an FCC licensing matter is  
5 there, Mr. Raymond?

6 JUDGE CHACHKIN: The question is what the  
7 congressman does and I guess we'll have to go into the FCC  
8 rules about propriety of a congressman lobbying for a result.  
9 I'm not going to get into it, it's not before us and I don't  
10 think we want to get into it, frankly, at this point. I don't  
11 think it'll help your cause either, Mr. Joyce. It's not just  
12 ex parte. It goes beyond ex parte what a congressman can do  
13 and cannot do in a case -- a restricted proceeding and there's  
14 plenty of precedent on that. And don't ask him. If you want  
15 to know, let's look at the precedent about what a congressman  
16 cannot and can do on behalf of a constituent in a restricted  
17 proceeding.

18 MR. JOYCE: That was not a restricted proceeding,  
19 Your Honor.

20 JUDGE CHACHKIN: Why wasn't it a restricted  
21 proceeding? Wasn't there, wasn't there -- at that point  
22 wasn't there a petition filed already to deny?

23 MR. HARDMAN: Yes, Your Honor, and --

24 MR. JOYCE: Mr. Hardman said, Mr. Hardman said that  
25 there is no such thing as a petition to deny a shared

1 frequency radio license application.

2 MR. HARDMAN: Your Honor --

3 JUDGE CHACHKIN: If you filed a petition to deny,  
4 that became a restricted proceeding.

5 MR. JOYCE: Not according to Mr. Hardman.

6 JUDGE CHACHKIN: What do you mean according to  
7 Mr. -- according to the FCC rules that a restricted  
8 proceeding.

9 MR. HARDMAN: Your Honor, if, if I may, I would like  
10 to clarify a couple of things. First of all, what I said was,  
11 and the record will bear me out, that the rules in the Private  
12 Radio Service do not permit petitions to deny as they do in  
13 Part 22 -- broadcast, all right, that's point number one.  
14 Point number two, that insofar as the restricted proceeding,  
15 and I, I don't think the record needs to be burdened with  
16 this, but if you will look at -- if, if the Bureau would look  
17 at the response to the Congressman Perkins' initial letter, I  
18 believe the managing director of the Commission advised Mr.  
19 Perkins that indeed this was a restricted proceeding and the  
20 ex parte rules did apply.

21 JUDGE CHACHKIN: So I suggest we move on to  
22 something else, Mr. Joyce.

23 BY MR. JOYCE:

24 Q All right. Thank you, Your Honor. Mr. Raymond, at  
25 page 10 of your direct testimony, you, you declare that RAM

1 started filing bogus, to use your words, "bogus" complaints  
2 with the FCC some time in November of 1990. Is that correct?

3 MR. HARDMAN: Your Honor, the word bogus was  
4 stricken before the exhibit was admitted, so --

5 JUDGE CHACHKIN: That's correct.

6 MR. JOYCE: All right.

7 MR. RAYMOND: And I'm sorry, would you give me the  
8 paragraph?

9 JUDGE CHACHKIN: We're not -- we're doing something  
10 else. I want to make clear, when, when the witness --  
11 Mr. Raymond characterizes something, I'm only going to go by  
12 what was filed, not by his characterization.

13 MR. JOYCE: I agree with that, Your Honor. I simply  
14 hadn't marked up my exhibit.

15 JUDGE CHACHKIN: All right.

16 MR. JOYCE: I apologize.

17 BY MR. JOYCE:

18 Q Okay. Mr. Raymond, page 10, the first full  
19 paragraph, we've stricken that word, you testified that before  
20 Capitol even started operating the station RAM started filing  
21 complaints against Capitol and accusing it of causing harmful  
22 interference, correct?

23 A Yes, sir.

24 Q Okay. Now, you and your counsel filed a response at  
25 the FCC to those complaints back in 1990, did you not?

1           A     I'm sure that they filed --

2           JUDGE CHACHKIN: It says that in the paragraph.

3           MR. RAYMOND: We did.

4           JUDGE CHACHKIN: The paragraph states what was  
5 filed.

6           BY MR. JOYCE:

7           Q     Would you turn to Capitol Exhibit No. 11,  
8 Mr. Raymond? And page 1 is a cover letter from Mr. Hardman to  
9 the FCC and attached to it is your declaration. And I take it  
10 this is your response, correct?

11          A     Yes, sir.

12          Q     Yes?

13          A     Yes, sir.

14          Q     All right, and your testimony is that Capitol wasn't  
15 operating its PCP station until March of 1991, correct?

16          A     Yeah, that is correct, sir.

17          Q     Okay. So, I presume when you heard about these  
18 complaints in November of 1990 you would have told the FCC  
19 that the reason there's no substance to these complaints is  
20 because we're not even operating our PCP station, correct?

21          A     I had no conversation with the FCC, sir.

22          Q     But as you were preparing your declaration for  
23 Mr. Hardman, you would have talked about what your response  
24 would be and you're about to deny the interference. So  
25 obviously the most likely defense to that allegation would be

1 hey, we haven't even constructed our PCP station, correct?

2 A I felt that my declaration assessed all that was  
3 needed to be at this time. There was the information in there  
4 denying it. Probably not as elegantly put as possibly you  
5 would have put it, but in my words -- in my opinion I answered  
6 the complaint.

7 Q My point is, Mr. Raymond, if you'd take a look at  
8 your declaration, you never said here that Capitol Paging had  
9 not constructed and was not operating on 152.48 did you?

10 A No, sir. I said it is absolutely and categorically  
11 false that we caused any harmful interference.

12 Q Right. So, I take that to mean that there is a  
13 possibility that you were, you were operating on 152.48 in  
14 some way, shape or form, correct?

15 A No, sir. We were not operating.

16 Q Well, that's what confuses me about your declaration  
17 here. Because you actually admit in your declaration in  
18 paragraph 1, 2, 3, you say, "I do agree with RAM that serious  
19 misconduct has evidently occurred in this matter and that the  
20 FCC should immediately investigate and severely punish the  
21 culpable party." And again, it seems to me that the best  
22 possible defense to an allegation that you're causing  
23 interference, and you can agree or disagree with this so that  
24 Mr. Hardman doesn't think I'm characterizing your answer, but  
25 it seems to me that the best possible defense would be look,

1 we haven't even constructed our station, we're not on the air,  
2 there's no way we could have caused that interference. But  
3 you didn't say that did you?

4 A I think I did, possibly not in those words. I said  
5 that the -- that -- in the first paragraph, "In that letter  
6 RAM accuses Capitol Paging -- retransmit paging messages onto  
7 the private-carrier paging frequency of 152.48 MHz." Are you  
8 up to there, sir? "Onto the -- in the Charleston area during  
9 the period -- " --

10 JUDGE CHACHKIN: Well, we, we don't have to read it  
11 all. Obviously, the RCC was operating. You were making a  
12 charge in connection with the RCC. What a better way to say  
13 than we didn't interfere. It -- have been sufficient to just  
14 say that the PCC was not operating. The RCC is accused of  
15 engaging in misconduct. I mean, I don't understand what we're  
16 quibbling over. It was a categorical denial of --

17 MR. JOYCE: We had --

18 JUDGE CHACHKIN: -- causing interference. Now, what  
19 more is there to say? If you have proof that they did cause  
20 interference put it in the record.

21 MR. JOYCE: I don't know why I'm here. Earlier in  
22 the week, Your Honor, we had testimony that has yet to be  
23 refuted by any witness from RAM's employees that they  
24 overheard Capitol RCC transmissions in November of 1990 which  
25 is well before when Capitol claims to have constructed and

1 | operating its PCP station.

2 |           MR. HARDMAN: Your Honor, I object to the  
3 | characterization --

4 |           JUDGE CHACHKIN: Of course it was refuted. It was  
5 | refuted by your prior witness, Capitol, and it's refuted by  
6 | this witness. What do you mean it hasn't been refuted?

7 |           MR. HARDMAN: I, I would also say, Your Honor, and I  
8 | hate to be technical, but this after all is a very technical  
9 | case. And what the testimony was, was that by monitoring  
10 | 152.51 and 152.48 during this period of time there was an  
11 | almost perfect stereo effect meaning that the same  
12 | transmissions were occurring on both .51 and .48. Now, that's  
13 | what the evidence is. Okay. Now, we have RAM's conclusions  
14 | that therefore Capitol was out causing interference to RAM but  
15 | we have yet to hear from Mr. Peters who I think will have  
16 | testimony as to what his opinion is, the, the reason for the  
17 | transmission occurring with that characteristic. And that's,  
18 | you know, I think the nub of what this, what this is all  
19 | about.

20 |           MR. JOYCE: Well, why don't we just have  
21 | Mr. Hardman write the opinion?

22 |           BY MR. JOYCE:

23 |           Q     Mr. Raymond, I'll, I'll move on this -- I take it  
24 | your testimony is consistent that you hadn't built your  
25 | 152.480 PCP station in December of 1990, the date that you

1 prepared this declaration, correct?

2 A Absolutely, sir.

3 Q All right, but now, isn't it possible that there was  
4 some other way that Capitol caused its 152.51 paging messages  
5 -- isn't it at least possible that Capitol could have caused  
6 its 152.51 to have been retransmitted onto the 152.480  
7 frequency?

8 A Not that I'm aware of, sir.

9 Q Now, at pages 11 through 12 of your direct testimony  
10 you referred to when Capitol built its PCP station.

11 A All right, sir.

12 Q And at the top of page 11, you testified that your  
13 system was initially constructed with two transmitters that  
14 you borrowed from Calvin Basham?

15 A That is correct --

16 Q Now, Calvin Basham is a paging competitor of yours,  
17 is he not?

18 A I don't know how you categorize competitor. He is  
19 not an RCC. He does have private-carrier frequency. So, yes,  
20 he would be a competitor. But we also have a tendency to  
21 compete very well together. Yes, he is a competitor.

22 Q Just --

23 A Yes.

24 Q That's what I thought. And he was competing against  
25 you on 152.480, correct?

1           A     No.

2           Q     Well, that's where his -- he's licensed to operate  
3 his PCP station, is he not?

4           A     That is correct. I believe he has five locations  
5 he's licensed at.

6           Q     I see. So, although he is a commercial paging  
7 company on 152.480, he's not necessarily in your service  
8 areas. Is that what you're saying?

9           A     No, sir. He is licensed in Charleston as well.

10          Q     Okay. Am I missing something?

11          A     I don't know where you're going.

12          Q     You earlier said that he's a competitor.

13          A     Yes, sir.

14          Q     But when I tried to establish that he's a -- I think  
15 I understand your distinction. You're saying that he's not  
16 competing against you for sharing the air time of 152.48? Is  
17 that what you're saying?

18          A     No. I didn't say that, sir. If I can explain -- I  
19 can tell you what I said.

20          Q     No, let me try to work through -- I appreciate your  
21 assistance. He is a competitor, he is a commercial paging  
22 operator, correct?

23          A     Yes, sir.

24          Q     All right. We've got that. He's licensed on  
25 152.48, correct?

1 A Yes, sir.

2 Q Okay. So, he has to share air time with RAM  
3 Technologies and Capitol, correct?

4 A Yes, sir.

5 Q Okay, and for each paging customer that he puts on  
6 152.48, that means that there's less available air time for  
7 both RAM and Capitol, correct?

8 A I would agree to that, sir.

9 Q Okay, and conversely, for each paging customer that  
10 Capitol puts on 152.48, there's less air time available to  
11 Mr. Calvin Basham, correct?

12 A Yes, sir.

13 Q Okay. But now, despite that fact, Mr. Basham lends  
14 to you two transmitters so that you can build a PCP system to  
15 operate on 152.48?

16 A Yes, sir.

17 Q Correct?

18 A Yes, sir.

19 Q Okay. Knowing full well that by assisting Capitol  
20 in building a PCP system and putting additional paging units  
21 on 152.48, Mr. Basham is increasing the likelihood that it  
22 might be harder for him to get his paging calls out, correct?

23 A That's not how he told me. He couldn't get them out  
24 to start with. Never had any, any luck. I think that's also  
25 in here -- declaration and a letter that followed to, to the

1 Compliance Department and a letter that was followed-up by RAM  
2 that evidently there was an inhibitor on and he couldn't get  
3 his pages out anyway. And RAM said oh, we were kind of  
4 unaware of that. So, my --

5 Q Let me ask my question again, Mr. Raymond and maybe  
6 you didn't understand the way I put it to you. Isn't it true  
7 that when Mr. Basham lent two transmitters to Capitol,  
8 assisting Capitol in going on the air on 152.48, by doing that  
9 he actually was increasing the likelihood that he would have  
10 more interference, more difficulty getting pages out on that  
11 frequency? Isn't that true?

12 A I can't agree with your wording, sir, so my answer  
13 is no.

14 Q Now, these transmitters are not particularly cheap,  
15 are they, Mr. Raymond?

16 A I have no idea what those transmitters would have  
17 cost him, sir.

18 Q Well, you're in the paging business so you do have a  
19 fair idea what a transmitter costs.

20 A I know what Motorola's cost. I do not know what  
21 GE's cost and he's a GE dealer so, you know, I have no idea.  
22 But they're, they're not something that costs \$100.

23 Q Correct. And since you were planning on providing  
24 paging service that customers would pay for, presumably in  
25 some way, shape or form those transmitters although might --

1 they might not have been as good as a Motorola which I  
2 understand is the Cadillac of transmitters, but they certainly  
3 had to be serviceable, did they not?

4 A You mean in working condition?

5 Q Yes.

6 A Yes, sir, they --

7 Q Okay. So, he wasn't just giving you junk that  
8 wasn't working in --

9 A No, sir. They operated.

10 JUDGE CHACHKIN: I wish I understood what you were  
11 doing, Mr. Joyce. Now, if I remember you vehemently protested  
12 letting in of the declaration of Basham on the grounds of  
13 hearsay. Now you've allowed this witness to testify about  
14 Basham and letting in the material which you opposed before  
15 coming in. It's a very interesting situation. Go ahead,  
16 Mr. Joyce.

17 BY MR. JOYCE:

18 Q Thank you, Your Honor. Now, Mr. Raymond, don't you  
19 say in your direct testimony at page 12, paragraph 2, that  
20 Mr. Basham previously had interference problems with RAM  
21 Technologies?

22 A Are you talking about where he said he's advising  
23 the FCC that his company also had experienced interference  
24 from RAM transmissions? Yes, sir. If I'm at the right part.

25 Q Yes, exactly. So now, it's not a coincidence is it,

1 Mr. Raymond, that this person who should have been your paging  
2 competitor who by assisting you was increasing the likelihood  
3 of congestion on 152.48, it's not a coincidence that this same  
4 fellow also previously had at least allegedly interference  
5 problems with RAM Technologies? Isn't that true, Mr. Raymond?

6 A I will have to apologize to you. I, I don't quite  
7 understand your question.

8 Q Well, I'll put it to you directly and I'll flip all  
9 the cards, Mr. Raymond. Wasn't Mr. Basham's lending you  
10 perfectly good transmitters which no paging competitor in his  
11 right mind would do to a paging competitor, wasn't that his  
12 way --

13 JUDGE CHACHKIN: That's ridiculous. Ask your  
14 question will you, please? Who knows --

15 BY MR. JOYCE:

16 Q Wasn't that his way of getting even with RAM  
17 Technologies?

18 JUDGE CHACHKIN: You'll have to ask Mr. Basham if  
19 you want to bring him -- how could he testify about  
20 Mr. Basham's motives?

21 BY MR. JOYCE:

22 Q Well, you spoke with Mr. Basham when you built your  
23 PCP system, did you not?

24 A Well, it's certainly obvious I did speak to him.

25 Q That's right. That's why I'm asking you,